

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition No.:** 79-023-14-1-5-01095-16  
**Petitioners:** Vassil M. Marinov & Venetka V. Marinova  
**Respondent:** Tippecanoe County Assessor  
**Parcel No.:** 79-06-11-326-023.000-023  
**Assessment Year:** 2014

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. Petitioners initiated the 2014 appeal with the Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) on December 12, 2014. The PTABOA issued its notice of final determination on April 12, 2016. Petitioner then filed its Form 131 Petition with the Board on May 25, 2016.
2. Petitioners elected to have the appeal heard under the Board’s small claims procedures. Respondent did not elect to have the appeal removed from those procedures.
3. Ellen Yuhan, the Board’s appointed Administrative Law Judge (“ALJ”), held the administrative hearing on August 9, 2017. Neither the ALJ nor the Board inspected the property.
4. Petitioners Vassil M. Marinov and Venetka V. Marinova were sworn and testified. Eric Grossman, Tippecanoe County Assessor, Christopher Coakes, Appeals Coordinator, and Kathleen Molinder, Chief Deputy, were sworn as witnesses for Respondent.<sup>1</sup>

**Facts**

5. The subject property is a single-family dwelling located at 2315 Archer Court in West Lafayette.
6. The PTABOA determined an assessed value of \$35,300 for the land and \$152,400 for the improvements for a total of \$187,700.

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<sup>1</sup> Jacquelyn Vance-Knuss, Deputy Assessor, was also sworn in during the original hearing date.

7. Petitioners requested an assessed value of \$35,300 for the land and \$113,700 for the improvements for a total of \$149,000.

### **Record**

8. The official record for this matter is made up of the following:

- a. A digital recording of the hearing,
- b. Exhibits:

Petitioner Exhibit 1:	List of assessments in the Wake Robin Estates Subdivision,
Respondent Exhibit 1:	Property record card for the subject property,
Respondent Exhibit 2:	Narrative of the appeal,
Respondent Exhibit 3:	Sales comparison grid,
Respondent Exhibit 4:	Sales comparison map,
Respondent Exhibit 5:	Subject neighborhood regression analysis,
Respondent Exhibit 6:	Subject time trend analysis,
Respondent Exhibit 7:	2016-2017 Uniform Standards of Professional, Appraisal Practice (“USPAP”) Advisory Opinion 18
Respondent Exhibit 8:	Excerpt from USPAP Advisory Opinion 23,
Respondent Exhibit 9:	Appraisal Practices Board Advisory #4,
Board Exhibit A:	Form 131 petition and attachments,
Board Exhibit B:	Notice of hearing dated March 14, 2017,
Board Exhibit C:	Hearing sign-in sheet dated April 26, 2017,
Board Exhibit D:	Notice of Rescheduled hearing dated June 30, 2017,
Board Exhibit E:	Hearing sign-in sheet dated August 9, 2017,

- c. These Findings and Conclusions.

### **Continuances**

9. This appeal was originally scheduled for September 8, 2016. On August 4, 2016, Petitioners requested a continuance until after October of 2016 because they would be out of the country. The Board granted the continuance.
10. The Board rescheduled the hearing for December 15, 2016. On November 22, 2016, Petitioners requested a continuance until after January 20, 2017, because they would be out of the country. The Board granted the continuance.
11. The Board rescheduled the hearing for April 26, 2017. Both Petitioners and Respondent appeared at the hearing. During the hearing, Petitioners requested a continuance in order to have time to have the evidence translated so they could adequately review it and

defend their case. Respondent did not object to the continuance. The Board granted the continuance with the understanding that all evidence should be exchanged prior to the next hearing and that no further continuances would be granted.

12. The hearing was rescheduled for July 13, 2017. On May 28, 2017, Petitioners informed the Board they would be out of the country and requested the hearing be scheduled for some time after August of 2017. Respondent objected to any further continuances. The Board, however, granted the continuance.
13. The hearing was rescheduled for August 9, 2017. Both parties appeared at the hearing. When Respondent presented Respondent Exhibit 9, the ALJ noticed that only the odd-numbered pages of the exhibit were included. Respondent mistakenly believed all of the pages were included in the exhibit. Petitioners requested a continuance so they would have time to review the entire exhibit.
14. The ALJ offered to give Petitioners time to read the excerpt of the exhibit Respondent read into the record. Petitioners were not satisfied with that. The ALJ informed Petitioners that they were told the Board had determined that no more continuances were going to be granted and the hearing would proceed. Because Ex. 9 was excluded, as explained below, the Board finds the denial of the continuance did not prejudice its petitioners.

### **Objections**

15. Petitioners objected to Respondent's exhibits because Mr. Marinov contends he does not understand them. Petitioners received the exhibits at the April 26, 2017 hearing.<sup>2</sup> They had approximately three months to review the documents. If assistance was needed to facilitate Mr. Marinov's understanding, Petitioners had adequate time to obtain it. The Board admits the exhibits over Petitioners' objections.
16. As noted above, Petitioners objected to Respondent Exhibit 9 because Respondent did not exchange the entire exhibit. The Board recognizes Respondent inadvertently omitted certain pages of the exhibit but, because the entire exhibit was not exchanged with Petitioners, the even-numbered pages are excluded. The Board notes, however, that the exclusion of that portion of Exhibit 9 does not affect the outcome of the decision.

### **Burden of Proof**

17. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that the assessment is wrong and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). A burden-shifting statute creates two exceptions to the rule.

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<sup>2</sup> At the hearing, the ALJ incorrectly stated that Petitioners had received the exhibits on July 13, 2017, and had one month to review them. Petitioners actually received the exhibits at the conclusion of the April 26, 2017, hearing.

18. First, Ind. Code § 6-1.1-15-17.2(a) “ applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Under Ind. Code § 6-1.1-15-17.2(b), “the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indianan board of tax review or to the Indiana tax court.”
19. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under Ind. Code § 6-1.1-15,” except where the property was valued using the income capitalization approach in the appeal. Under subsection (d), “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d).
20. These provisions may not apply if there was a change in improvements, zoning, or use. Ind. Code § 6-1.1-15-17.2(c).
21. The assessed value increased from \$149,000 to \$187,700 between 2013 and 2014, which is an increase of more than 5%. Respondent, therefore, has the burden of proof.

### **Contentions**

22. Summary of Respondent’s case:
  - a. The property consists of a 3,090 square foot two-story house situated on a 0.3064 acre lot in the Wake Robin subdivision which contains single-family homes constructed between the late 1980s to present. The house was built in 2003 and Petitioners purchased it for \$166,000 in 2004. *Grossman testimony; Resp’t Exs. 1 & 2.*
  - b. At the time of the purchase, the assessed value was \$205,200. Petitioners appealed the 2006 assessed value of \$216,200, requesting a value of \$172,000. The PTABOA determined the assessment was accurate and the Board upheld that determination. *Grossman testimony; Resp’t Ex. 2.*
  - c. During the course of the appeal process, the Wabash Township Assessor considered an appraisal prepared by Dale Webster that Petitioners presented. As a result, the 2007 assessed value was lowered to \$173,200. From 2008 to 2013, the assessed values ranged from \$169,600 in 2008 to \$149,000 in 2013. These values were due in part to a 24% economic obsolescence factor. *Grossman testimony; Resp’t Exs. 1 and 2.*

- d. In 2014, the county learned that the subject property was still receiving the obsolescence adjustment and removed it because there was no market evidence to support it. This caused the improvement value to increase by 34% from \$113,700 to \$152,400. The removal of the obsolescence factor brought the subject property's value in line with other values in the neighborhood. *Grossman testimony; Resp't Ex. 2.*
- e. Respondent presented a sales comparison analysis to support the 2014 assessed value. Respondent selected seven purportedly comparable sales of two-story houses in the neighborhood that sold between January 1, 2013, and November 15, 2013. All are within a 1,400 foot radius of the subject property, three are directly across the street, and all have similar features. *Grossman testimony; Resp't Exs. 2-4.*
- f. Respondent contends that to obtain credible results using the sales comparison approach, one must adjust for the differences between the purportedly comparable properties and the subject property. Adjustments must be quantifiable and data-driven. For that reason, Respondent reviewed 101 sales in the subject's geographic area dating from 2009 and developed a linear regression model. The model uses multiple variables to quantify what drives differences in value. *Grossman testimony; Resp't Exs. 3 & 5.*
- g. Respondent contends the regression model not only identifies what variables drive value, but specifically how and in what proportion they contribute. In this case, five variables were identified. They are time of sale, living area, grade, age, and garage size. All of the comparable sales were adjusted for these variables as shown in Exhibit 3. *Grossman testimony; Resp't Exs. 3 & 5.*
- h. According to Respondent, his linear regression model constitutes an "Automated Valuation Model" ("AVM"). USPAP Advisory Opinion 18 describes an AVM as a computer software program that analyzes data using an automated process. Respondent contends this methodology is generally accepted by "people who value property credibly." Respondent contends he used a very similar methodology in *Tippecanoe County v. Justin Greer*, IBTR Pet. #79-035-14-1-5-20341-15, a case in which Respondent prevailed. *Grossman testimony; Resp't Ex. 7.*
- i. To see how reasonable the comparable properties truly are, Respondent contends one should look at the gross and net adjustments. He contends a general principle for a typical appraisal of a single-family home is that the net adjustments are less than 15% and the gross adjustments are less than 25%. Generally, this analysis achieved those results. There are no extraordinary adjustments, so he contends the properties are truly comparable to the subject. *Grossman testimony; Resp't Ex. 3.*
- j. Respondent contends the value derived using the sales comparison approach is approximately \$237,406. Respondent is not requesting that value, but is showing that

the analysis produces a value that supports the PTABOA decision. *Grossman testimony; Resp't Ex. 3.*

- k. Respondent also presented a time trend analysis based on the 101 sales previously referenced. Petitioners purchased the property for \$166,000 in 2004, which is over nine years removed from the relevant assessment date. The analysis indicates that, in the time period between the purchase and the assessment date, the value of properties in the neighborhood increased by 22.29%. When that factor is applied to the 2004 purchase price of the subject, it results in a 2014 value of \$203,000. *Grossman testimony; Resp't Ex. 6.*
  - l. Finally, the \$149,000 value that Petitioners request translates to \$48 per square foot. Considering the data presented in the time trend analysis, there are no properties that would sell at that price. On the other hand, the \$187,700 value Respondent is requesting equates to approximately \$61 per square foot, which is reasonable and perhaps even slightly low. *Grossman testimony; Resp't Ex. 6.*
  - m. Based on the sales comparison analysis and the time trend analysis, Respondent believes that the 2014 assessed value of \$187,700 should be upheld. *Grossman testimony; Resp't Ex. 2.*
23. Summary of Petitioners' case:
- a. Petitioners contend that when they purchased the property, there were serious defects that would have cost approximately \$70,000 to repair. *Marinova testimony.*
  - b. Petitioners contend that Respondent has not inspected the interior of the house. They contend that it is not fair to simply consider the square footage of a property without looking at other factors when calculating an assessed value. *Marinova testimony.*
  - c. Petitioners contend that in 2012 the property was assessed at \$180,000. They appealed that assessment and it was reduced to \$149,200. Petitioners contend that it is inappropriate for Respondent to ignore that reduction in value. *Marinova testimony.*
  - d. Petitioners contend that, even though there were no changes to the property, the assessed value increased by 35% between 2013 and 2014.<sup>3</sup> In contrast, the assessed values of other properties in the Wake Robin subdivision only increased at a rate of 0% - 2% over that time. *Marinova testimony; Pet'r Ex. 1.*
  - e. In light of these considerations, Petitioners contend the 2014 assessed value should be \$149,000. *Marinova testimony; Pet'r Ex. 1.*

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<sup>3</sup> The assessed value actually only increased by approximately 26% between 2013 and 2014.

## Analysis

24. Respondent established a prima facie case that the assessment was correct. Petitioners failed to rebut Respondent's evidence. The Board reached this decision for the following reasons:
- a. Real property is assessed based on its "true tax value", which means "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2); *see also* Ind. Code § 6-1.1-31-6(c). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques used to calculate market value-in-use. MANUAL at 2. Assessing officials primarily use the cost approach. MANUAL at 3. The cost approach estimates the value of the land as if vacant and then adds the depreciated cost new of the improvements to arrive at a total estimate of value. MANUAL at 2. Any evidence relevant to the true tax value of the property as of the assessment date may be presented to rebut the presumption of correctness of the assessment, including an appraisal prepared in accordance with generally recognized appraisal standards. MANUAL at 3.
  - b. Regardless of the method used to prove a property's true tax value, a party must explain how its evidence relates to the subject property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). The valuation date for a 2014 assessment was March 1, 2014. Ind. Code § 6-1.1-4-4.5(f); 50 IAC 27-5-2(c).
  - c. Respondent presented a sales comparison approach. To effectively use a sales comparison approach in a property tax assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471.
  - d. Here, Respondent presented seven comparable properties that are similar to the subject property in several ways. They are all two-story homes that are similar in age, lot size, and amenities. Three of the properties are directly across the street from the subject and all are within a 1,400 foot radius.
  - e. Respondent sufficiently identified and quantified several differences between the subject property and the comparables. Specifically, Respondent made adjustments for differences in date of sale, area, grade, age, and garage size. He explained that he used a linear regression model to identify those differences as the most significant variables driving value. Further, Respondent presented USPAP Advisory Opinions

- #18 and #23, and Appraisal Practices Board Valuation Advisory #4 to support his methodology. As a result, Respondent arrived at a value of approximately \$237,406 using the sales comparison approach.
- f. In further support of the assessed value, Respondent prepared a time trend analysis. The analysis shows that sale prices increased by approximately 22% from 2004, when Petitioners purchased the property, to 2014. As a result, the projected sale price for the subject property is \$203,000. The analysis also indicates that the current assessed value of \$187,700 translates to a value of approximately \$61 per square foot, which would fall within the very low range of the sales presented.
  - g. The comparative sales analysis and the time trend analysis actually support a higher assessed value than the actual 2014 current assessed value. As a result, the evidence is enough to make a prima facie case that the property is not over assessed.
  - h. Once Respondent established a prima facie case, the burden shifted to Petitioner to rebut Respondent's evidence. Ind. Code § 6-1.1-15-17.2(b). Petitioner must offer evidence that impeaches or rebuts Respondent's evidence. *Meridian Towers*, 805 N.E.2d at 479.
  - i. Petitioners contend that in 2012 the assessed value was originally \$180,000. They appealed the 2012 assessment and it was reduced to \$149,200. The 2013 assessed value was \$149,000. Petitioners claim that based on the 2012 appeal, and on the fact that no changes were made between 2013 and 2014, the 2014 value should be \$149,000.
  - j. It is a well-settled concept in Indiana that each assessment year stands alone. *See Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645,650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)) (“[F]inally, the court reminds Fleet Supply that each assessment and each tax year stands alone. ... Thus, evidence as to the Main Building's assessment in 1992 is not probative as to its assessed value three years later.”) Consequently, Petitioners' reliance on either a 2012 or 2013 assessed value carries no probative weight.
  - k. Petitioners also presented an assessment comparison analysis including nearby purportedly comparable properties. Indeed, parties may introduce assessments of comparable properties to prove the market value-in-use of a property under appeal, provided those comparable properties are located in the same taxing district or within two miles of the taxing district's boundary. Ind. Code § 6-1.1-15-18(c)(1). The determination of whether the properties are comparable using the “assessment comparison” approach must be based on generally accepted appraisal and assessment practices. *Indianapolis Racquet Club, Inc. v. Marion Co. Ass'r*, 15 N.E.2d 150 (Ind. Tax Ct. 2014). In other words, the proponent must provide the type of analysis that *Long* contemplates under a sales comparison approach. *Id.*; *see also Long*, 821

N.E.2d at 471 (finding sales data lacked probative value where the taxpayers did not explain how purportedly comparable properties compared to their property or how relevant differences affected value).

1. Petitioners presented a spreadsheet of homes in the Wake Robin subdivision. The spreadsheet shows the percentage of change in assessments between 2013 and 2014. Petitioners claim the majority of the assessments increased between 0% and 2%, while their assessment increased by 25.9%. However, Petitioners failed to offer any meaningful evidence comparing each property's specific characteristics to those of the subject property. Thus, the type of analysis and related adjustments required for a probative comparison are lacking. For these reasons, Petitioners failed to make a prima facie case that the assessment should be reduced.

### **CONCLUSION**

25. Respondent established a prima facie case that the assessment is correct. Petitioners failed to rebut or impeach Respondent's evidence. Therefore, the Board finds for Respondent.

### **FINAL DETERMINATION**

In accordance with the above findings of fact and conclusions of law, the Board determines the 2014 assessed value should not be changed.

ISSUED: November 6, 2017

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.